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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : M. C. MARTIN et al. Confirmation No. 4861
Appln No. : 09/846,568 Group Art Unit: 2154
Filed : May 1, 2001 Examiner: J. Chang
For : METHOD FOR ADAPTING AN INTERNET WEB SERVER TO SHORT-TERM CHANGES IN DEMAND

REQUEST FOR PRE-APPEAL BRIEF REVIEW

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Window, Mail Stop AF
Randolph Building
401 Dulany Street
Alexandria, VA 22314
Sir:

This request is being filed concurrently with a Notice of Appeal and is responsive to the Final Official Action of June 6, 2005.

Reconsideration and withdrawal of the 35 U.S.C. § 102(b) rejection and the 35 U.S.C. § 103(a) rejections is respectfully requested in view of the following remarks.

A prima facie case of unpatentability has not been set forth and the Rejections Under 35 U.S.C. §§ 102(b) and 103(a) Are Improper

Examiner's Assertion

On pages 2-3 of the Final Office Action, the Examiner lists numerous citations wherein MYERSON allegedly teaches "associating session tracking objects with browsers that access a web server, wherein the session tracking objects include identifications of web pages requested by the browsers" (claims 1 and 9). This assertion is not correct.

Applicant's Response

Applicants have reviewed each of the citations and fail to see any disclosure therein with regard to this claim feature. The specific language in MYERSON does not even remotely discuss associating session tracking objects with browsers that access a web server. To the contrary, the language cited by the Examiner merely discusses, among other unrelated things, how web servers can store certain information in access logs.

Examiner's Assertion

On page 3 of the Final Office Action, the Examiner asserts that MYERSON teaches "analyzing the identifications of web pages requested by the browsers to determine caching priorities for the web server" (claims 1 and 9) at, among other locations, col. 1, line 65 to col. 2, line 21 and col. 2, lines 22-26. This assertion is not correct.

Applicant's Response

The specific language cited by the Examiner in MYERSON does not discuss caching priorities, much less, analyzing the identifications of web pages requested by the browsers to determine caching priorities for the web server. Instead, this language merely discusses how recently accessed web sites can be cached.

Examiner's Assertion

On page 3 of the Final Office Action, the Examiner appears to acknowledge that

MYERSON does not specifically disclose any determining of caching priorities, but nevertheless asserts that the language at col. 3, lines 25-27, col. 4, lines 62-67 and col. 6, lines 54-61 discussing weight data representing the relative frequency of requests for various objects associated with the web site disclose the recited caching priorities.

Applicant's Response

Applicant disagrees. The language cited by the Examiner merely explains that a directed graph file can store information about the relative frequency of requests for various objects associated with the web site. Such disclosure is hardly suggestive of an analysis of identifications of web pages, much less, one which determines caching priorities. Nor has the Examiner properly explained how such disclosure is equivalent to the recited feature.

Examiner's Assertion

The Examiner acknowledges that MYERSON does not teach "altering a server cache responsive to the caching priorities" (claim 9), but asserts that this is disclosed at col. 1, lines 31-45 and col. 8, lines 21-23 of GLANCE. This assertion is not correct.

Applicant's Response

The language cited by the Examiner at col. 1, lines 31-45 of GLANCE states the following:

Determining which documents to cache and when to replace them is achieved through a caching replacement algorithm. Most state of the art web server, proxy, and client caching replacement algorithms typically take into account

variables such as frequency of access, recency of access, data file (document) size, and estimated document retrieval latency to determine the priority of a document in the cache. The primary assumption behind these parameters is that prior usage will be a reliable predictor of future access. These parameters also enable cache replacement policies to optimize hit rates, byte-weighted hit rates, and end-user latency. More recent algorithms employ these variables in adaptive frameworks since global weightings have been found non-optimal for individual caches and traffic patterns change over time.

The language cited by the Examiner at col. 8, lines 21-23 of GLANCE states the following:

Update the cache index with the cache index in cache 24 with the URL, weight, time stamp.

While such language discloses the caching of documents using a caching algorithm, such language is hardly suggestive of altering a server cache responsive to the caching priorities, especially considering the fact that the recited caching priorities are those which are determined by analyzing the identifications of web pages requested by the browsers.

CONCLUSION

- Reconsideration of the Final Office Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

Respectfully submitted,
M. C. MARTIN et al.

A handwritten signature in black ink, appearing to read 'Andrew M. Calderon', with a large, stylized loop at the end.

Andrew M. Calderon
Reg. No. 38,093

October 3, 2005
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191